

REMARKS

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-4 and 7-16 are pending in the application. Claims 5-6 have been cancelled without prejudice or disclaimer. The remaining original claims have been amended to better define the claimed invention. New claims 15-16 have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/new claims find solid support in the original specification and drawings. No new matter has been introduced through the foregoing amendments.

1. The objection to claim 8 is believed overcome in view of the above amendments.
2. The 35 U.S.C. 101 rejection of claims 1-14 under the recent *In re Bilski* case is noted. Applicants respectfully traverse the rejection, because the rejected claims, at least as amended, satisfy at least the "particular machine" prong of the *In re Bilski* test.

In particular, *In re Bilski* requires a method claim to be **tied** to either (1) a particular machine or (2) the transformation of a particular article. See the Office Action at paragraph 3. The *In re Bilski* test does not require the claimed method to be accomplished by a particular machine as apparently indicated in the Office Action, at paragraph 4. Therefore, it is sufficient for a claimed method to be **tied** to a particular machine to satisfy the *In re Bilski* test.

The currently claimed method, indeed, meets the "particular machine" prong of the test. For example, amended independent claim 1 recites "a method of partitioning resource spaces and assigning physical channels and power in an OFDMA-based cellular system which comprises a plurality of base stations and a plurality of cells associated with the base stations." The claimed

method is thus **tied** to the recited cellular system with its base stations. A person of ordinary skill in the art would understand that a cellular system with its base stations is a particular, physical machine with specific hardware as exemplarily illustrated in FIG. 5 of the instant application. Accordingly, Applicants respectfully submit that the claimed method of claim 1 is **tied** to a particular machine as required by the *In re Bilski* test. Claim 1 is thus patent-eligible under 35 *U.S.C. 101*.

The other independent claims as well as the respective dependent claims should be considered patent-eligible under 35 *U.S.C. 101* for at least similar reasons to claim 1.

Withdrawal of the 35 *U.S.C. 101* rejection is now believed appropriate and therefore respectfully requested.

3. The art rejections relying on *Nadgauda* are also noted. Although Applicants do not necessarily agree with the Office's position, amendments have nevertheless been made solely for the purpose of expediting prosecution.

In particular, the subject matter of claim 5 and/or claim 6 which are not rejected over *Nadgauda* has been incorporated in independent claims 1 and/or 2 to overcome the applied references.

Likewise, claim 13 which is also free of prior art has been rewritten in independent form, and should be considered patentable over the applied art of record.

The dependent claims, including any new claim(s), are considered patentable at least for the reason(s) advanced with respect to the respective independent claim(s).

Withdrawal of the art rejections is now believed appropriate and therefore respectfully requested.

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Each of the Office's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,
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